Guidance Document 150-13
Revised February, 2004

Veterinary Prescriptions

The office of the Board of Veterinary Medicine often receives questions regarding what is required of a veterinarian when requested to provide a prescription for controlled substances (including Schedule VI) to be filled outside of the practice. The most frequent questions are:

- **What authority does a veterinarian have to prescribe?**
- **Does the veterinarian have a right to refuse to provide a prescription?**
- **May a veterinarian charge a fee for writing the prescription?**
- **What is needed on a prescription form?**
- **What obligations does the pharmacy or pharmacist have in filling a veterinary prescription?**
- **Does the veterinarian have to honor a request by a pharmacy for a prescription over the telephone or fax?**
- **What is required of a pharmacist in filling a prescription?**

To provide a ready reference for the answers, this document will outline the relevant statutes and regulations as well as the Board of Veterinary Medicine's interpretation of the prescriptive authority of veterinarians and of what constitutes unprofessional conduct. Also, outlined are the more pertinent statutory requirements of pharmacies and pharmacists when filling veterinary prescriptions.

Please note that this document does not serve as a clinical reference for prescribing.

I. What authority does a veterinarian have to prescribe?

Veterinarians are authorized to prescribe Schedule II through VI drugs by federal and state law. Of most familiarity in the Virginia Drug Control Act is the section specifically addressing professional use by veterinarians:

> **§ 54.1-3409. Professional use by veterinarians.**
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> *A veterinarian may not prescribe controlled substances for human use and shall only prescribe, dispense or administer a controlled substance in good faith for use by animals within the course of his professional practice. He may prescribe, on a written prescription or on oral prescription as authorized by § 54.1-3410. . . Such a prescription shall be dated and signed by the person prescribing on the day when issued, and shall bear the full name and address of the owner of the animal, and the species of the animal for which the drug is prescribed and the full name, address and registry number, under the federal laws of the person prescribing, if he is required by those laws to be so registered.*

However, the following portions of §§54.1-3408 and 54.1-3303 also apply, and they detail what is required to render a **valid** prescription.

> **§ 54.1-3408. Professional use by practitioners.**
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> *A practitioner of . . . veterinary medicine shall only prescribe, dispense, or administer controlled substances in good faith for medicinal or therapeutic purposes within the course of his professional practice.*
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> *The prescribing practitioner's order may be on a written prescription or pursuant to an oral prescription as authorized by this chapter. . .*

> **§ 54.1-3303. Prescriptions to be issued and drugs to be dispensed for medical or therapeutic purposes only.**
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> *A. A prescription for a controlled substance may be issued only by a practitioner of . . . veterinary medicine who is authorized to prescribe controlled substances . . . The prescription shall be issued for a medicinal or therapeutic purpose and may be issued only to . . . animals with whom the practitioner has a bona fide practitioner-patient relationship[emphasis added].*

Section 54.1-3303 (A) pertains to all authorized prescribers, not just veterinarians. So, for veterinarians, it should be taken to mean a bona fide practitioner-*client*-patient relationship. Section A continues,

> *. . . a bona fide practitioner-patient relationship means that the practitioner shall (i) ensure that a medical or drug history is obtained; (ii) provide information to the patient [client] about the benefits and risks of the drug being prescribed; (iii) perform or have performed an appropriate examination of the patient, either physically or by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically; except for medical emergencies, the examination of the patient shall have been performed by the practitioner himself, within the group in which he practices, or by a consulting practitioner prior to issuing a prescription; and (iv) initiate additional interventions and follow-up care, if necessary, especially if a prescribed drug may have serious side effects. Any practitioner who prescribes any controlled substance with the knowledge that the controlled substance will be used otherwise than medicinally or for therapeutic purposes shall be subject to the criminal penalties provided in § 18.2-248 for violations of the provisions of law relating to the distribution or possession of controlled substances.*

It should be noted that the pharmacist who fills the prescription must determine if the prescription is valid, and part of this determination involves establishing that a bona fide practitioner-patient (client)-pharmacist relationship exists.

> *A. . . . For purposes of this section, a bona fide practitioner-patient-pharmacist relationship is one in which a practitioner prescribes, and a pharmacist dispenses, controlled substances in good faith to his patient for a medicinal or therapeutic purpose within the course of his professional practice.*
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> *B. In order to determine whether a prescription which appears questionable to the pharmacist results from a bona fide practitioner-patient relationship, the pharmacist shall contact the prescribing practitioner or his agent and verify the identity of the patient and name and quantity of the drug prescribed. The person knowingly filling an invalid prescription shall be subject to the criminal penalties provided in § 18.2-248 for violations of the provisions of law relating to the sale, distribution or possession of controlled substances.*
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> *No prescription shall be filled [by a pharmacy] unless there is a bona fide practitioner-patient-pharmacist relationship. A prescription not issued in the usual course of treatment or for authorized research is not a valid prescription.*

II. Does the veterinarian have the right to refuse to provide a prescription?

The Regulations Governing the Practice of Veterinary Medicine (§18 VAC 150-20 10 *et seq.*) provide that it is unprofessional conduct to violate any state law, federal law, or board regulation pertaining to the practice of veterinary medicine (ref. §18 VAC 150-20-140 (6)). **The Board has held consistently that it is unprofessional conduct for a veterinarian to refuse to provide a prescription to a client if he would have dispensed the medication for the patient from his own animal facility.** This does not mean that the veterinarian is compelled to release a prescription if requested if there are medical reasons for not releasing it and he would not dispense the medication from his own practice.

III. May a veterinarian charge a fee for writing the prescription?

There is nothing in statute or regulation to prohibit a practitioner from charging a reasonable fee for writing the prescription if he so chooses.

IV. What information is required on a prescription and in what format?

NOTE: This section was amended in the 2003 General Assembly to remove the requirement for the "voluntary formulary" and "dispense as written" boxes.

§ 54.1-3408.01. Requirements for prescriptions.

A. The written prescription referred to in § 54.1-3408 shall be written with ink or individually typed or printed. The prescription shall contain the name, address, and telephone number of the prescriber. A prescription for a controlled substance other than one controlled in Schedule VI shall also contain the federal controlled substances registration number assigned to the prescriber. The prescriber's information shall be either preprinted upon the prescription blank, electronically printed, typewritten, rubber stamped, or printed by hand.

The written prescription shall contain the first and last name of the patient for whom the drug is prescribed. The address of the patient shall either be placed upon the written prescription by the prescriber or his agent, or by the dispenser of the prescription. If not otherwise prohibited by law, the dispenser may record the address of the patient in an electronic prescription dispensing record for that patient in lieu of recording it on the prescription. Each written prescription shall be dated as of, and signed by the prescriber on, the day when issued. The prescription may be prepared by an agent for the prescriber's signature.

This section shall not prohibit a prescriber from using preprinted prescriptions for drugs classified in Schedule VI if all requirements concerning dates, signatures, and other information specified above are otherwise fulfilled.

No written prescription order form shall include more than one prescription. . .

D. The oral prescription referred to in §54.1-3408 shall be transmitted to the pharmacy of the patient's choice by the prescriber or his authorized agent. For the purposes of this section, an authorized agent of the prescriber shall be an employee of the prescriber who is under his immediate and personal supervision, or if not an employee, an individual who holds a valid license allowing the administration or dispensing of drugs and who is specifically directed by the prescriber.

It should be further noted that §54.1-3303 requires that the species of the animal be included, as well (see final page of this document).

V. What are the requirements to practice pharmacy?

Questions have arisen concerning the obligations of pharmacies, both in- and out-of-state, other than the pharmacist establishing that a valid practitioner-client-patient relationship exists. It is beneficial to know what is required for the practice of pharmacy

§ 54.1-3434. Permit to conduct pharmacy.

No person shall conduct a pharmacy without first obtaining a permit from the Board.

The application for such permit shall be made on a form provided by the Board and signed by a pharmacist who will be in full and actual charge of the pharmacy and who will be fully engaged in the practice of pharmacy at the location designated on the application.

The application shall (i) show the corporate name and trade name, (ii) list any pharmacist in addition to the pharmacist-in-charge practicing at the location indicated on the application, and (iii) list the hours during which the pharmacy will be open to provide pharmacy services. Any change in the hours of operation, which is expected to last more than one week, shall be reported to the Board in writing and posted, at least fourteen days prior to the anticipated change, in a conspicuous place to provide notice to the public. The Board shall promulgate regulations to provide exceptions to this prior notification.

If the owner is other than the pharmacist making the application, the type of ownership shall be indicated and shall list any partner or partners, and, if a corporation, then the corporate officers and directors. Further, if the owner is not a pharmacist, he shall not abridge the authority of the pharmacist-in-charge to exercise professional judgment relating to the dispensing of drugs in accordance with this act and Board regulations. The permit shall be issued only to the pharmacist who signs the application as the pharmacist-in-charge and as such assumes the full responsibilities for the legal operation of the pharmacy. This permit and responsibilities shall not be construed to negate any responsibility of any pharmacist or other person.

Upon termination of practice by the pharmacist-in-charge, or upon any change in partnership composition, or upon the acquisition, as defined in Board regulations, of the existing corporation by another person or the closing of a pharmacy, the permit previously issued shall be immediately surrendered to the Board by the pharmacist-in-charge to whom it was issued, or by his legal representative, and an application for a new permit may be made in accordance with the requirements of this chapter.

The Board shall promulgate regulations (i) defining acquisition of an existing permitted, registered or licensed facility or of any corporation under which the facility is directly or indirectly organized; (ii) providing for the transfer, confidentiality, integrity, and security of the pharmacy's prescription dispensing records and other patient records, regardless of where located; and (iii) establishing a reasonable time period for designation of a new pharmacist-in-charge. At the conclusion of the time period for designation of a new pharmacist-in-charge, a pharmacy which has failed to designate a new pharmacist-in-charge shall not operate as a pharmacy nor maintain a stock of prescription drugs on the premises. The Director shall immediately notify the owner of record that the pharmacy no longer holds a valid permit and that the owner shall make provision for the proper disposition of all Schedule II through VI drugs and devices on the premises within fifteen days of receipt of this notice. At the conclusion of the fifteen-day period, the Director or his authorized agent shall seize and indefinitely secure all Schedule II through VI drugs and devices still on the premises, and notify the owner of such seizure. The Director may properly dispose of the seized drugs and devices after six months from the date of the notice of seizure if the owner has not claimed and provided for the proper disposition of the property. The Board shall assess a fee of not less than the cost of storage of said drugs upon the owner for reclaiming seized property.

The succeeding pharmacist-in-charge shall cause an inventory to be made of all Schedule I, II, III, IV and V drugs on hand. Such inventory shall be completed as of the date he becomes pharmacist-in-charge and prior to opening for business on that date.

The pharmacist to whom such permit is issued shall provide safeguards against diversion of all controlled substances.

An application for a pharmacy permit shall be accompanied by a fee determined by the Board. All permits shall expire on December 31 of each year.

Every pharmacy must be equipped so that prescriptions can be properly filled. The Board of Pharmacy shall prescribe the minimum of such professional and technical equipment and reference material which a pharmacy shall at all times possess. No permit shall be issued or continued for the conduct of a pharmacy until or unless there is compliance with the provisions of this chapter and regulations promulgated by the Board. Each day during which a person is in violation of this section shall constitute a separate offense.

§ 54.1-3434.3. Denial, revocation, and suspension of registration.

The Board may deny, revoke, or suspend a nonresident pharmacy registration for conduct which causes serious bodily or serious psychological injury to a resident of the Commonwealth if the Board has referred the matter to the regulatory or licensing agency in the state in which the pharmacy is located and the regulatory or licensing agency fails to initiate an investigation within forty-five days of the referral.

Out-of-state pharmacies doing business in Virginia must be regulated by the Board of Pharmacy as well as their “home” state’s board of pharmacy. Out-of-state pharmacies that fill prescriptions for Virginians (i.e., are in essence doing business in Virginia) must abide by some of Virginia’s laws, as well as those of the state in which they are physically located. The following statutes cover registration of non-resident pharmacies

§ 54.1-3434.1. Nonresident pharmacies to register with Board.

A. Any pharmacy located outside this Commonwealth which ships, mails, or delivers, in any manner, Schedule II through VI drugs or devices pursuant to a prescription into this Commonwealth shall be considered a nonresident pharmacy, shall be registered with the Board, and shall disclose to the Board all of the following:

1. The location, names, and titles of all principal corporate officers and all pharmacists who are dispensing prescription drugs or devices to residents of this Commonwealth. A report containing this information shall be made on an annual basis and within thirty days after any change of office, corporate officer, or principal pharmacist.

2. That it complies with all lawful directions and requests for information from the regulatory or licensing agency of the Commonwealth in which it is licensed as well as with all requests for information made by the Board pursuant to this section. The nonresident pharmacy shall maintain, at all times, a valid unexpired license, permit, or registration to conduct the pharmacy in compliance with the laws of the state in which it is a resident. As a prerequisite to registering with the Board, the nonresident pharmacy shall submit a copy of the most recent inspection report resulting from an inspection conducted by the regulatory or licensing agency of the state in which it is located.

3. That it maintains its records of prescription drugs or dangerous drugs or devices dispensed to patients in this Commonwealth so that the records are readily retrievable from the records of other drugs dispensed and provides a copy or report of such dispensing records to the Board, its authorized agents, or any agent designated by the Superintendent of the Department of State Police upon request within seven days of receipt of a request.

4. That its pharmacists do not knowingly fill or dispense a prescription for a patient in Virginia in violation of § 54.1-3303.

B. Any pharmacy subject to this section shall, during its regular hours of operation, but not less than six days per week, and for a minimum of forty hours per week, provide a toll-free telephone service to facilitate communication between patients in this Commonwealth and a pharmacist at the pharmacy who has access to the patient's records. This toll-free number shall be disclosed on a label affixed to each container of drugs dispensed to patients in this Commonwealth.

C. The registration fee shall be the fee specified for pharmacies within Virginia.

§ 54.1-3434.4. Prohibited acts.
It is unlawful for any nonresident pharmacy which is not registered under this article to advertise its services in Virginia or for any person who is a resident of Virginia to advertise the pharmacy services of a nonresident pharmacy which has not registered with the Board, with the knowledge that the advertisement will or is likely to induce members of the public in the Commonwealth to use the pharmacy to dispense prescriptions.

VI. Do I have to honor a prescription request by a pharmacy sent by telephone or fax ?

A veterinarian may honor such a request if a valid veterinarian-client-patient relationship exists as described previously and the veterinarian is sure that the client has requested it. However, the veterinarian is not compelled to do so. Section §54.1-3408.02 allows the transmission of faxed prescriptions.

§ 54.1-3408.02. Transmission of prescriptions.

Consistent with federal law and in accordance with regulations promulgated by the Board [of Pharmacy], prescriptions may be transmitted to a pharmacy by electronic transmission or by facsimile machine and shall be treated as valid original prescriptions.

VII. What are the requirements for pharmacists in filling prescriptions?

Section §54.1-3410 addresses this.

§ 54.1-3410. When pharmacist may sell and dispense drugs.

A. A pharmacist, acting in good faith, may sell and dispense drugs and devices to any person pursuant to a prescription of a prescriber as follows:

1. A drug listed in Schedule II shall be dispensed only upon receipt of a written prescription that is properly executed, dated and signed by the person prescribing on the day when issued and bearing the full name and address of the patient for whom, or of the owner of the animal for which, the drug is dispensed, and the full name, address, and registry number under the federal laws of the person prescribing, if he is required by those laws to be so registered. If the prescription is for an animal, it shall state the species of animal for which the drug is prescribed;

2. In emergency situations, Schedule II drugs may be dispensed pursuant to an oral prescription in accordance with the Board's regulations;

3. Whenever a pharmacist dispenses any drug listed within Schedule II on a prescription issued by a prescriber, he shall affix to the container in which such drug is dispensed, a label showing the prescription serial number or name of the drug; the date of initial filling; his name and address, or the name and address of the pharmacy; the name of the patient or, if the patient is an animal, the name of the owner of the animal and the species of the animal; the name of the prescriber by whom the prescription was written; and such directions as may be stated on the prescription.

B. A drug controlled by Schedules III through VI or a device controlled by Schedule VI shall be dispensed upon receipt of a written or oral prescription as follows:

1. If the prescription is written, it shall be properly executed, dated and signed by the person prescribing on the day when issued and bear the full name and address of the patient for whom, or of the owner of the animal for which, the drug is dispensed, and the full name and address of the person prescribing. If the prescription is for an animal, it shall state the species of animal for which the drug is prescribed.

2. If the prescription is oral, the prescriber shall furnish the pharmacist with the same information as is required by law in the case of a written prescription for drugs and devices, except for the signature of the prescriber.

A pharmacist who dispenses a Schedule III through VI drug or device shall label the drug or device as required in subdivision A 3 of this section.

C. A drug controlled by Schedule VI may be refilled without authorization from the prescriber if, after reasonable effort has been made to contact him, the pharmacist ascertains that he is not available and the patient's health would be in imminent danger without the benefits of the drug. The refill shall be made in compliance with the provisions of § 54.1-3411.

If the written or oral prescription is for a Schedule VI drug or device and does not contain the address or registry number of the prescriber, or the address of the patient, the pharmacist need not reduce such information to writing if such information is readily retrievable within the pharmacy.

D. Pursuant to authorization of the prescriber, an agent of the prescriber on his behalf may orally transmit a prescription for a drug classified in Schedules III through VI if, in such cases, the written record of the prescription required by this subsection specifies the full name of the agent of the prescriber transmitting the prescription.